

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1361

Introduced by Assembly Member Karnette

February 23, 2007

An act to amend Sections 91004 and 91007 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL’S DIGEST

AB 1361, as amended, Karnette. Political Reform Act of 1974: civil actions.

Under existing provisions of the Political Reform Act of 1974, a person who violates the reporting requirements specified in the act or makes or receives a contribution, gift, or expenditure in violation of specified provisions of the act is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction. Under the act, before filing a civil action, a person is required to first file with the civil prosecutor a written request for the civil prosecutor to commence the action. Under the act, if the civil prosecutor indicates an intent to file a civil action and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought by the requesting person unless the action brought by the civil prosecutor is dismissed without prejudice.

This bill would limit the number of these civil filings that could be made by an individual or group to ~~40~~ 50 within the previous a 12-month period *and would authorize a court to permit additional filings under specified circumstances*. The bill would also require that any person requesting that the prosecutor initiate a civil action include an affirmation that a copy of the written request has been provided to the

person against whom the action is being sought, *and would require that the request be limited to a claim that a single person or group of persons has committed a violation of the act during the course of a single transaction or a series of transactions involving the same person or persons.* This bill would also require a court, in setting the amount of a judgment, to consider any rules or regulations of the Fair Political Practices Commission for similar violations. The bill would also prohibit a civil action by a requesting person if the commission issues an administrative order or publishes a declaration of no violation, *except that a declaration of no violation may be appealed to the court and, under specified circumstances, the court may permit the action to be filed.*

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 91004 of the Government Code is
2 amended to read:

3 91004. Any person who intentionally or negligently violates
4 any of the reporting requirements of this title shall be liable in a
5 civil action brought by the civil prosecutor or by a person residing
6 within the jurisdiction for an amount not more than the amount or
7 value not properly reported. ~~In setting~~ *exercising its discretion to*
8 *set* the amount of a judgment under this section, the court shall
9 ~~consider the~~ *take into consideration any* rules and regulations of
10 ~~the Commission~~ *commission* applicable to similar violations.

11 SEC. 2. Section 91007 of the Government Code is amended
12 to read:

13 91007. (a) Any person, before filing a civil action pursuant to
14 Sections 91004 and 91005, must first file with the civil prosecutor
15 a written request for the civil prosecutor to commence the action.
16 The request shall include a statement of the grounds for believing
17 a cause of action exists, and shall include an affirmation that a
18 copy of the written request has been provided to the person or

1 persons against whom a cause of action is said to exist. A person,
2 or group of persons acting in concert, may file not more than ~~40~~
3 ~~50~~ of these written requests ~~within the previous~~ *in any* 12-month
4 period. *Each written request shall be limited to a claim that a*
5 *single person, or a group of persons acting in concert or otherwise*
6 *jointly and severally liable, has committed one or more violations*
7 *of this title during the course of a single transaction or occurrence,*
8 *or in a series of transactions or occurrences involving the same*
9 *person or persons. A person who is unable to file a written request*
10 *under this section because he or she has filed 50 or more requests*
11 *in a 12-month period may apply to the court for permission to*
12 *bring a civil action pursuant to Section 91004 or 91005. The court*
13 *shall grant permission if it determines that the civil action is in*
14 *the public interest and the person has established probable cause*
15 *to believe that a violation of this title has occurred.* The civil
16 prosecutor shall respond to the person in writing, indicating
17 whether he or she intends to file a civil action.

18 (1) If the civil prosecutor responds in the affirmative and files
19 suit, or the commission issues an order or publishes a declaration
20 of no violation pursuant to Section 83116, within 120 days from
21 receipt of the written request to commence the action, no other
22 action may be brought unless an action brought by the civil
23 prosecutor is dismissed without prejudice as provided for in Section
24 91008, *except that a declaration of no violation may be appealed*
25 *to the court. If an appeal of a declaration of no violation is filed,*
26 *the court shall permit a civil action to be filed if it determines that*
27 *the appellant has established probable cause to believe that a*
28 *violation has occurred.*

29 (2) If the civil prosecutor responds in the negative within 120
30 days from receipt of the written request to commence the action,
31 the person requesting the action may proceed to file a civil action
32 upon receipt of the response from the civil prosecutor, provided
33 that the person against whom a cause of action is asserted has
34 ~~actually and timely received~~ *been provided* the notice required in
35 subdivision (a), and further provided that the person filing the
36 action, or persons acting in concert with that person, has not filed
37 ~~40~~ 50 or more written requests pursuant to this section within the
38 previous 12-month period. If, pursuant to this subdivision, the civil
39 prosecutor does not respond within 120 days, the civil prosecutor
40 shall be deemed to have provided a negative written response to

1 the person requesting the action on the 120th day and the person
2 shall be deemed to have received that response.

3 (3) The time period within which a civil action shall be
4 commenced, as set forth in Section 91011, shall be tolled from the
5 date of receipt by the civil prosecutor of the written request to
6 either the date that the civil action is dismissed without prejudice
7 or the date of receipt by the person of the negative response from
8 the civil prosecutor, but only for a civil action brought by the
9 person who requested the civil prosecutor to commence the action.

10 (b) Any person filing a complaint, cross-complaint, or other
11 initial pleading in a civil action pursuant to Section 91003, 91004,
12 91005, or 91005.5 shall, within 10 days of filing the complaint,
13 cross-complaint, or initial pleading, serve on the commission a
14 copy of the complaint, cross-complaint, or initial pleading or a
15 notice containing all of the following:

16 (1) The full title and number of the case.

17 (2) The court in which the case is pending.

18 (3) The name and address of the attorney for the person filing
19 the complaint, cross-complaint, or other initial pleading.

20 (4) A statement that the case raises issues under the Political
21 Reform Act of 1974.

22 (c) No complaint, cross-complaint, or other initial pleading shall
23 be dismissed for failure to comply with subdivision (b).

24 SEC. 3. The Legislature finds and declares that this bill furthers
25 the purposes of the Political Reform Act of 1974 within the
26 meaning of subdivision (a) of Section 81012 of the Government
27 Code.